W. Va. 525, 82 S. E. 320 (gaming statute, followed by N. I. L.). It is interesting to note that a great commercial state like New York, after a seemingly hopeless conflict in the lower courts, has recently settled the matter in favor of the view that the N. I. L. does not repeal the earlier statute, and gives the holder in due course of such an instrument no protection. *Sabine v. Paine, supra;* see (1918) 28 YALE LAW JOURNAL, 85. It would seem that the instant case represents the majority view, and is perfectly sound.

CARRIERS—NEGLIGENCE—LIABILITY FOR GOODS IMPROPERLY PACKED.—The plaintiff delivered goods for carriage to the defendant railway company, which, to the knowledge of the company, were improperly packed. Owing to the defective packing, the goods were damaged during transit. *Held,* that the railway company was not liable. *Gould v. Southeastern and Chatham Ry.* [1920] 2 K. B. 186.

One of the exceptions to the carrier's common-law liability arises where the injuries are due to the improper packing of the goods. *Carpenter v. Balt. & O. Ry.* (1906, Del. Super. Ct.) 6 Penn. 15, 64 Atl. 252; *Northwestern Marble & Tile Co. v. Williams* (1915) 128 Minn. 514, 151 N. W. 419. That a carrier may reject goods known to be defectively packed is a well settled principle. *Truax v. Phila. W. & B. Ry.* (1873, Del. Super. Ct.) 3 Houst. 233. If the carrier accepts goods without knowledge of the improper packing, the authorities agree that it is relieved of all liability. *Morris v. Wier* (1897) 20 Misc. 586, 46 N. Y. Supp. 413; *Richardson & Sisson v. N. E. Ry.* (1872) L. R. 7 C. P. 75. But where there is no written evidence that the shipper assumes the risk and the carrier accepts goods which it knows are defectively packed or which, by the exercise of reasonable care, it could have observed were improperly packed, there is conflict. Many courts have held that since the carrier had the privilege of rejecting the goods and waived this privilege, then the common-law liability attaches. *Calender-Vanderhoof Co. v. C. B. & Q. Ry.* (1906) 99 Minn. 295, 109 N. W. 402; *Atlantic Coast Line Ry. v. Rice* (1910) 169 Ala. 265, 52 So. 918. Others, on the contrary, have held, in accord with the instant case, that the duty of the carrier is simply to carry the goods in the condition offered. *Goodman v. Oregon Ry. and Nav. Co.* (1892) 22 Ore. 14, 28 Pac. 894; *Ross v. Troy & B. Ry.* (1876) 49 Vt. 364. The burden, however, is on the carrier to show that the injury was due to improper packing and not to any fault on its part. *Union Express Co. v. Graham* (1875) 26 Ohio St. 595. But where both the carrier and the shipper are negligent, the carrier is liable, the negligence of the shipper being considered in mitigation of damages. *McCarthy & Baldwin v. L. & N. Ry.* (1893) 102 Ala. 193, 14 So. 370; *Atlanta W. P. Ry. v. Jacobs Pharmacy Co.* (1910) 135 Ga. 113, 68 S. E. 1039.

CONTRACTS—CONSIDERATION—ACCORD AND SATISFACTION—ACCEPTANCE OF PART MISTAKENLY BELIEVED TO BE THE WHOLE.—The plaintiff, who had insured his store with two companies, surrendered one of his policies for cancellation. Shortly thereafter his store burned. Assuming that the surrender did not operate as a discharge and that both policies were in force, the plaintiff accepted a proportionate share of the loss as a full settlement of his claim on the second policy. Under Rev. St. Neb. 1913, sec. 3208, however, surrender with request for cancellation amounted to a cancellation. The plaintiff sued for the difference between the proportion paid and the agreed amount of the loss, all of which was due under the policy issued by the defendant company. *Held,* that the plaintiff might recover. *Johnson v. St. Paul Fire and Marine Ins. Co.* (1920, Neb.) 178 N. W. 926.

It seems well settled that a payment of a smaller sum in satisfaction of a larger, past-due, liquidated indebtedness does not discharge the debt. *Foakes v. Beers* (1884, H. L.) L. R. 9 A. C. 605; *Hoidale v. Wood* (1904) 93 Minn. 190, 100 N. W.

1100. But the payment of the amount conceded to be due upon a claim, the remainder of which is in dispute, is good consideration for a release of the whole claim. *Tanner v. Merrill* (1895) 108 Mich. 58, 65 N. W. 664; *Janci v. Cerny* (1919) 287 Ill. 359, 122 N. E. 507; *contra, Demeules v. Jewel Tea Co.* (1908) 103 Minn. 150, 114 N. W. 733. Before the legal principles pertaining to compromises will apply there must be some bona fide dispute. *Silander v. Gronna* (1906) 15 N. D. 552, 108 N. W. 544; *Isaacs v. Wishnick* (1917) 136 Minn. 317, 162 N. W. 297. In the principal case there had been no dispute. It is interesting to note that in believing that the other policy was not yet cancelled, the parties made a mistake of law. Money paid under a mistake of law is said not to be recoverable under the majority rule. *Brisbane v. Dacres* (1813, C. P.) 5 Taunt. 143; *Alton v. First National Bank* (1892) 157 Mass. 341, 32 N. E. 228; *contra, Northrop v. Graves* (1849) 19 Conn. 548. But courts, as in the instant case, often fail to discuss or observe the point, and when they do, avoid what they consider an inequitable result by various expedients. For instance, by an intangible distinction money paid under a mistake of fact induced by a mistake of law can be recovered. *King v. Doolittle* (1858, Tenn.) 1 Head, 77; *Freeman v. Curtis* (1862) 51 Me. 140. In the principal case the discharge is held invalid for lack of consideration; but the decision may well be approved on the ground that the discharge was rendered invalid by the mistake, thus further supporting the existing tendency to undermine the so-called rule as to money paid by mistake of law. The following cases are in accord with the principal case. *Goodson v. National Masonic Accident Assn.* (1902) 91 Mo. App. 339; *Mintzer v. Supreme Council A. L. H.* (1903, Sup. Ct.) 41 Misc. 512, 85 N. Y. Supp. 23.

CONTRACTS—ENLISTMENT—SUIT BY A SOLDIER FOR PAY.—The plaintiff brought this action to recover pay for military service rendered by him. He enlisted in September, 1914, under an Act which stated that the enlistment was for one year or the duration of the war, the pay to be 6s. a day. He was later notified that a mistake had been made and that he was a "regular," whose pay was only 1s. a day and whose enlistment was for seven years with the colours and five years with the reserve. The plaintiff, threatening to bring habeas corpus proceedings, was discharged in January, 1920, and brought this action for breach of his contract. The defendant demurred. *Held,* that the plaintiff could not recover. *Leaman v. The King* (1920, K. B.) 36 T. L. R. 835.

The English courts consider enlistment as a contract which is terminable at the will of the Crown. 25 Halsbury, *Laws of England* (1913) sec. 90. This is so even if the soldier has been promised a position for life. *In re Tufnell* (1876) L. R. 3 Ch. 164. And the rule obtains even in the case of a civilian serving the Crown. *Dunn v. The Queen* [1896] 1 Q. B. 116. Cases involving pay have been subject to demurrer because the soldier has no contract with the Crown which can be enforced in a civil suit. *Mitchell v. The Queen* [1896] 1 Q. B. 121. The American current of authority on the particular point in question is directly opposed to the instant case. See 3 Cyc. 841. Enlistment has been held to be a valid contract except that the person enlisted has changed his status regarding certain defenses he may have had against the enforcement of an ordinary contract. *In re Grimly* (1890) 137 U. S. 147, 11 Sup. Ct. 54; *In re Morrissey* (1890) 137 U. S. 157, 11 Sup. Ct. 57. An action for pay was maintained even where the soldier was suspended during the time for which he sought compensation. *Conrad v. U. S.* (1897) 32 Ct. Cl. 139. The fact that a contract is terminable at the will of one party does not make it any the less binding on the other party. *Pilkington v. Scott* (1846) 15 M. & W. 655; see (1920) 29 YALE LAW JOURNAL, 115. A sovereignty is under no legal duty to fulfill its contracts unless the obligation results from a class of liabilities specifically assumed. The court's only duty is to declare the legal duty or privilege of the government. The distinction between the two opposing lines